HUMAN RIGHTS IN LAW AND SOCIETY
Legal Studies 409
Fall 2015, M/W@2:30-3:45pm
Social Sciences 6112

Professor Alexandra Huneeus
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COURSE DESCRIPTION
This course provides an introduction to theoretical, legal and social science perspectives on human rights. We begin in Unit One with the question “what are human rights,” and examine several theoretical perspectives, starting with The Enlightenment. In Unit Two we turn to law, exploring the formal international human rights legal regime that has evolved since World War II. The second half of the course examines human rights “in action,” focusing not on their theoretical justification or legal structure, but rather their social and political origins and effects. In Unit III, we turn to law’s role in preventing and redressing mass atrocity. In the fourth and final unit, we look at economic, social and cultural rights, and the social justice movements that have helped shape them. Throughout Units III and IV, we ask whether, in the end, human rights law makes a difference, and if so, who wins and who loses? And throughout the course, we will emphasize human rights in the United States as well as beyond.

LEARNING OUTCOMES
The course aims to give students an understanding of the origins, structure, justification, and impact of the international human rights system. Students will become familiar with the main international institutions and treaties governing human rights in our world. More deeply, they will also acquire an analytical view of law’s potential and limits in creating social and political change. Finally, the course aims to deepen students’ ability to think analytically, and to write argumentatively.

COURSE REQUIREMENTS
The following is a brief description of the requirements for the class. Each requirement will be described in more detail below.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Approximate Percent of Final Grade</th>
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<tbody>
<tr>
<td>Homework assignments</td>
<td>5%</td>
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<tr>
<td>Class participation</td>
<td>10%</td>
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<td>Debate</td>
<td>10%</td>
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<td>Final Exam</td>
<td>20%</td>
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<td>Paper</td>
<td>25%</td>
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<tr>
<td>Two in-class tests</td>
<td>30% (15% each, roughly)</td>
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In-Class Tests & Final Exam
We will have two in-class testing exercises, and a final exam. The first in-class test will be on September 28, the second on October 21, during class. The final is scheduled for Saturday, December 19, 5:05-7:05pm. Please make note of these times. If you cannot make these times, you should not enroll in this class.

Paper
You are expected to write one five-page paper. I will hand out a list of suggested topics. The paper should be argumentative, well-written, and original.

The writing of the paper will take place in two phases. First, you will hand in a rough draft, and get feedback from your peers. Second, you will revise, and then turn in the final draft. Your grade will reflect the effort you put into improving the rough draft, as well as the quality of the final draft. Please hand in both drafts on paper, NOT by email.

Below are the due dates. We will discuss this assignment further throughout the semester.

- Paper draft: November 25
- Paper final: December 7

Debate
Once during the semester, you will participate in an in-class debate with your peers. You will be expected to work on a debate team with at least one other student, or else to perform as a judge. Your grade on this will reflect the team’s performance as well as your own. We will discuss this assignment further throughout the semester.

In-class participation
You are expected to come to class prepared to discuss the readings, to ask questions, and to participate. For each reading assignment, I have signaled what questions you should come prepared to discuss. There are two main types of in-class participation:

- I expect people to volunteer to add to the discussion.
- I will also call on people to get them involved. In particular, I will have on-call groups for each week, starting the second week of classes.
- When you are on-call, you must write out answers to the discussion questions and turn them in (but this is considered to be a homework assignment rather than a form of in-class participation).

- News and Email. Finally, another form of participation is sending me news articles or other material that you find relevant to class and interesting. This form of participation is voluntary. It is a good way to engage if you find it difficult to speak in class.

Homework assignments
Further, at times you will be expected to turn in written assignments. Many of these are already written into the list of readings and assignments; but I may assign others as we go.

Event Report. One homework assignment is that you are expected to attend one lecture or other event, on or off campus, relating to the themes of the class. Further, you must write a one-page report (single-space) on the event, and report back to the class. The
report should: 1) briefly describe the event, and 2) link it to the themes of the class. You
can do the report at any time. However the last day to turn in the report is **December 2.**
(Again, please hand in paper copies, NOT electronic copies.)

I will announce relevant events in class. But you should also seek events in the following
sources:

- Law school events calendar: http://law.wisc.edu/events/
- Human Rights Initiative: http://humanrights.wisc.edu/
- Campus events calendar: www.today.wisc.edu
- Department homepages: ie political science, sociology, history

**Required Events.** Human Rights Conference and Soffa Lecture. The UW now has a
Human Rights Program which is sponsoring two events this fall, a lecture on socio-
economic rights, and a two-day conference on human rights and politics. Attendance at
these events will be required, and you will have to write up answers to questions about
them, as indicated in the List Of Readings And Assignments. These reports do not count
towards the Event Report described above.

**Other Homework Assignments.**

- Occasionally I will have you write up answers to particularly questions as
  homework.
- Also, on the day you are on call, you must answer the discussion questions listed
  on the syllabus in writing and turn them in.

**ATTENDANCE**

Attendance is absolutely required. If you must skip a class, you should discuss this with the
professor beforehand.

**OFFICE HOURS**

My office hours will take place on Wednesdays before class, starting at 1:00pm, or by
appointment. Please feel free to come by during my office hours to discuss course issues or
questions, career questions, or anything else. Please do make an appointment if you cannot
come to my regular office hours.

**WEBSITE**

I have created a website for this class on learn@uw. The following materials will be posted on
the website:

- This course description
- The list of reading assignments
- The reading assignments themselves
- Relevant media articles and news events
- Powerpoint slides used in class
To access the website, you must go to learnuw.wisc.edu, and log in using your regular Net ID and password (the same one you use to log in to wiscmail). Once you are logged in, you will see a link leading to the class website.

**TARDINESS**
Please do not arrive late to class as it is disruptive both to me and to your classmates. Repeated tardiness will result in a lower grade.

**ACCOMMODATIONS**
Students with particular needs that might affect participation or coursework should inform the professor about those needs within the first three weeks of the semester so we reasonably can accommodate those needs properly. The professor relies on the McBurney Disability Resource Center to determine what reasonable academic accommodations a student may require. Students who request accommodations must master all requirements, skills, knowledge, and academic standards of the course.
Students who request relief for religious observances also should notify the professor within the first three weeks of the semester.

**COURSE MATERIALS**
The readings for each week are posted on the course website (see below).

**READING ASSIGNMENTS**
You can find a list of readings for the semester, as well as the readings themselves, on the course website. The reading assignments and other assignments are also listed below.
SCHEDULE OF LECTURES AND ASSIGNMENTS
The readings can be found on the course website unless otherwise noted. Any changes to the syllabus will also be announced in lecture and by email.

<table>
<thead>
<tr>
<th>Date &amp; topic</th>
<th>Reading Assignment</th>
<th>Notes &amp; Discussion Questions</th>
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<tbody>
<tr>
<td>1. September 2</td>
<td><strong>Introduction</strong></td>
<td>Make sure you understand what is required, and that you can undertake the commitment you are making by being part of this class.</td>
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<tr>
<td>2. September 7</td>
<td>Labor day – no school, no homework!</td>
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<td>3. September 9</td>
<td><strong>On Liberty</strong></td>
<td>Questions for handing in September 14:</td>
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<td>• Isaiah Berlin, excerpts from <em>Two Concepts of Liberty</em> (1958)</td>
<td>• Would you rather enjoy positive or negative liberty?</td>
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<td></td>
<td>• Benjamin Constant (1816) “The Liberty of Ancients Compared with that of Moderns” (excerpts)</td>
<td>• Are the liberties of the Ancients an example of positive or negative liberty?</td>
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<td></td>
<td>Class will not be held this day; however, you will be required to do a project with two other students</td>
<td>• And the liberties of the moderns?</td>
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<td>4. September 14</td>
<td><strong>The Rights of Man and Citizen</strong></td>
<td>Questions for reflection:</td>
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<td>• Jean Jacques Rousseau, excerpts from <em>The Social Contract</em> (1762) (from <em>The Philosophy of Human Rights</em>, ed. Patrick Hayden (2001) 80-88)</td>
<td>• Is Locke’s social contract an example of positive or negative liberty?</td>
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<td>• Declaration of Rights of Man and Citizen (1789)</td>
<td>• Is Rousseau’s social contract an example of positive or negative liberty?</td>
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<td>• Is the Declaration of the Rights of Man and Citizen animated by positive or negative liberty?</td>
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<td>5. September 16</td>
<td><strong>Critics of the Rights of</strong></td>
<td>Questions for reflection:</td>
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<td>• Jeremy Bentham, excerpts from <em>The Works of Jeremy Bentham</em>, 118-125</td>
<td>• Why, for Bentham, is the concept of natural</td>
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<td>Date</td>
<td>Topic</td>
<td>Reading/Debate</td>
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  • Reading for debate: Sahin v Turkey (European Court of Human Rights) (excerpted from Damrosch p. 962-974)  
  **In-class debate No. 1**  
  Liberty v equality:  
  *Do Muslim women have a human right to use the veil in universities?*  
  *(Everyone should come prepared to discuss this)* | • In what ways are the values of equality and liberty in conflict?  
  • When rights conflict with each other, how can we resolve the conflict? | |
| 7. September 23 | The Relativist Critique | • Philip Alston and Ryan Goodman, International Human Rights (2013) 531-537; 146-149  
  Reading for debate:  
  • Irene Caselli, “Ecuador’s indigenous justice system on trial”, BBC News, July 2010  
  **In-class debate No. 2**  
  Relativism v Universalism:  
  *Should indigenous peoples be able to use traditional forms of punishment that are otherwise illegal?*  
  *(Everyone should come prepared to discuss this)* | • Does the question of the universality/relativism of human rights come up in US political debates? How?  
  • Is it permissible to ban the use of the burka in public schools? | |
<p>| 8. September 28 | In-class activity/test | | |
|                | | <strong>Question for class discussion:</strong> | | |</p>
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<th>Reading/Resource</th>
<th>Questions/Reflection</th>
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<tr>
<td>10. October 5</td>
<td>What is International Law?</td>
<td>Vaughan Lowe, <em>International Law</em> (2007) 1-13; 34-35; 64-68, Paragraph on Renana Jhabvala is due. Answer question: What tradition of rights-thinking does Renana Jhabvala’s lecture reflect (and why)? Or: Does Jhabvala use the language of rights?</td>
<td>Questions for reflection: Why do we have international law? How is it different from national law? What are the sources of international law? Who are the subjects of international law? How has international law changed over the last 100 years?</td>
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<td>12. October 12</td>
<td>International Human Rights Law: The UN HR Institutions</td>
<td>The UN Human Rights Council, “Five Things to Know about the Human Rights Council” (A video by Council on Foreign Relations), Carol Anderson, <em>Eyes off the Prize, chapter 2</em> (“The Struggle for Human Rights: African-American Petition the United Nations”) 58-80 (midway); 92-98 (top); 105-112</td>
<td>Questions for reflection: What is the biggest challenge facing the HRC? Why was Eleanor Roosevelt so reluctant to receive the NAACP petition?</td>
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<td>13. October 14</td>
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<td>Sean Murphy, <em>Principles of International Law</em>. 300-319</td>
<td>Questions for reflection:</td>
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</table>
| The UN HR Treaty System | • Josh Levs, “Michael Brown’s parents address the UN,” CNN, November 12, 2014.  
• Ian Tuttle, “Michael Brown’s Parents Testify before UN Committee against Torture,” National Review, November 11, 2014. | • Are the UN treaty-based and charter-based systems redundant? Why or why not?  
• Why would we need two covenants, one on civil and political rights, and one on economic, social and cultural rights?  
• Why would a country like the US not give individuals the right to petition to the ICCPR committee? |
|------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|
Readings for debate:  
• *Gelman v Uruguay* (excerpts from Inter-American Court judgment)  
• Robert Gargarella “No Place for Popular Sovereignty,” (2013) 1-23  
**In-class debate no. 3**  
*Was Gelman v Uruguay rightly decided? Or, should democratic majorities be able to choose to forego prosecution of state atrocity?*  
(Everyone should come prepared to discuss this) | **Questions for reflection:**  
• Why would the United States choose not to be subject to the Inter-American Court?  
• Is it redundant to have both an international human rights system and a regional one (and a national one)? |
| The regional human rights systems | 15. October 21 | 16. October 26  
National systems and international crimes |  |
| UNIT THREE  
ATROCITY CRIMES AND FUNDAMENTAL RIGHTS |  |  |
| 16. October 26 | • The Genocide Convention (please read the entire convention – it is short)  
• Listen to the song “Strange Fruit”  
• “New Report Examines Lynchings and Their Legacy in the United States” (NRP, February 10, 2015) – Please listen to the radio program:  
(Bryan Stephenson, who created *Lynching in America*, delivers the Big Read lecture tonight) | **Question for thought:**  
• Were the post-War lynchings in the United States a form of genocide?  
• Why did the US refuse to ratify the 1948 Convention on the Prevention of Genocide until 1988?  
• Why were those responsible for lynching not subject to prosecution for their crimes? |
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- What about those who participated in lynchings? |
| 19. November 5-7 | Human Rights Conference                                               | No class on Nov. 4  
- Human rights conference attendance required: plenary + one panel of your choice  
- Paragraphs are due the following week (see below) |  
| 20. November 9  | International Criminal Legal System                                  | Paragraphs on conference due today:  
- in one paragraph, explain how the panel you attended relates to an issue in our class  
- in another, tell me whether you learned something new about race in the US from the plenary  
Readings for Debate:  
- Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program, pp. 1-19 (Findings and Conclusions), 2014.  
**In-Class Debate No. 4:**  
Should the US prosecute for the use of torture in the war on terror?  
(Materials are on the course website – everyone should come prepared to discuss) | - What are law’s limits in responding to mass violence? |
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<th>Questions for thought</th>
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• Why is positive complementarity important? |
• Should Colombia punish all those who committed war crimes and crimes against humanity? |
• What is more important, political and civil rights, or economic, social and cultural rights? Would you rather be protected by the ICCPR or the ICESCR?  
• What challenges would an international court face in enforcing economic and social rights? |
| 25. November 25 | No class |  |  |
| 25. November 25 | First draft of paper due to your peer group |  |  |
| 26. November 30 | Is there a right to food? | • Dunoff pp 488-500  
• Angela Duger, Right to Food and Obesity,  
• International Convention on Economic, Social and Cultural Rights | Question for thought:  
• Is there a right to food and, if so, does it encompass a right to healthy food?  
Question for thought:  
• Is there a contradiction between group rights and individual rights? |
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<th>Reading/Notes</th>
<th>Question for thought</th>
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               |                                                                      | Petition to the Inter American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States  
               |                                                                      | American Convention on Human Rights                                                | Can the law and institutions of human rights, focused on the individual and on particular groups, adequately address the problems created by climate change? |
|               |                                                                     | In-class Debate No. 6:                                                        |                                                                                       |
|               |                                                                     | *Did the US violate the human rights of the Inuit by contributing to climate change?* |                                                                                       |
|               |                                                                     | *(All should come prepared to participate – there are no extra readings for debate)* |                                                                                       |
               |                                                                      | Donna Lee Van Cott, “A Political Analysis of Legal Pluralism,” *Journal of Latin American Studies*, (2000) 207-218 (review from Unit One) | What is more important: individual rights or group rights?  
               |                                                                      |                                                                               | How are the two in tension, and how can such tensions be resolved?                  |
|               |                                                                     | Final Paper due today                                                        |                                                                                       |
| 29. December 9| Review                                                              | Eric Posner, “Against Human Rights,” *Harpers Magazine* (October 2014)        | Do any of the readings we have discussed back up these critics?                       |
|               |                                                                      | Bring study strategy/plan                                                     | How will you study for the final exam?                                               |